



# THE INTERIM

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## THE INTERIM

Montana Legislative Services Division  
Room 110, State Capitol  
PO Box 201706  
Helena, MT 59620-1706  
Phone: (406) 444-3064  
Fax: (406) 444-3036

**THE INTERIM** is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.mt.gov>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

## ENERGY AND TELECOMMUNICATIONS COMMITTEE

Public comment encouraged for draft reports and draft legislation...The Energy and Telecommunications Interim Committee is accepting public comment on two draft reports and two pieces of draft legislation.

In June, the ETIC released the following reports: "Perspectives on Public Power: A Review of the Public Power Model, Its History, and Its Potential in Montana" and "Carbon Sequestration Study: An Analysis of Geological and Terrestrial Carbon Sequestration Regulatory and Policy Issues."

Public comments will be compiled and presented at the ETIC's July 17 in Room 172 of the Capitol. The committee also will accept testimony during the meeting.

In addition to the draft reports, the ETIC is reviewing two pieces of draft legislation and inviting the public to comment on the proposals.

The first bill draft establishes the surface owner as the owner of pore space used for the long-term storage of carbon dioxide or other substances, including compressed air. The draft legislation includes reporting requirements, protects existing oil and gas rights, and affirms the dominance of the mineral estate. The bill draft was largely modeled after legislation approved by the Wyoming Legislature earlier this year.

The second piece of draft legislation is a study bill. The proposed study bill directs the ETIC next interim to oversee a geologic carbon sequestration study that is narrowly focused on liability, cost, and jurisdictional policy.

Geological carbon sequestration is the process of trapping carbon dioxide after it is created from the production, processing, and burning of coal, gas, and oil at power plants and injecting it underground. Terrestrial sequestration is the process through which carbon dioxide from the atmosphere is absorbed by trees, crops, or plants and stored as carbon in biomass.

Last October the Environmental Protection Agency announced plans to establish rules for geological sequestration. The new regulations will ensure that a permitting system for CO<sub>2</sub> injection is consistent with what is now under the Safe Drinking Water Act. The rules are expected this summer and should provide additional guidance on the subject of sequestration. The proposed study bill is an effort to monitor activity at the federal level and be prepared to act during the 2011 legislative session.

The draft reports, findings, and legislation are all available on the ETIC website at [www.leg.mt.gov/etic](http://www.leg.mt.gov/etic). Meeting materials and additional information on the ETIC and its studies also can be found there.

Copies of the reports may be obtained from ETIC staff by calling (406) 444-3078. Comments may be submitted by email to [snowakowski@mt.gov](mailto:snowakowski@mt.gov). Please include "carbon sequestration study" or "public power study" in the subject line. To submit comments by mail, send to: Sonja Nowakowski, Legislative Environmental Policy Office, Room 171A, P.O. Box 201704, Helena, MT 59620-1704.

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Services  
Division**

## NEW STAFF ON BOARD

The Legislative Services Division has hired two new staff members. Sonia Gavin started April 21 as legislative information resources manager in the legislative library. Most recently, Gavin was employed at the University of Montana School of Forestry where she oversaw many of the day-to-day operations of the office. Sonia is ready to assist legislators with research requests and she can be reached at (406) 444-4848 or sgavin@mt.gov.

The other new staff member is Jeremy Gersovitz, who joined LSD as a staff attorney on April 21. He graduated from the University of Montana School of Law in 1992. After clerking for a year for Judge Thomas C. Honzel, he practiced almost exclusively as a public defender. Gersovitz staffs the State-Tribal Relations Interim Committee and the Education and Local Government Interim Committee. He can be reached at (406) 444-3804 or jgersovitz@mt.gov.

## LEGISLATIVE AUDIT COMMITTEE

New legislative auditor hired... The legislative auditor search subcommittee met on June 6 to interview three finalists to succeed Scott Seacat as chief legislative auditor and director of the Legislative Audit Division. Seacat is retiring after 24 years as legislative auditor. Following a long day of interviews and discussion, the subcommittee recommended Tori Hunthausen as the legislative auditor. The subcommittee nominated her for the position at the June 20 Legislative Audit Committee meeting, and the committee unanimously approved the nomination. Hunthausen, who has 20 years of experience in the Legislative Audit Division, took over as legislative auditor on July 1.

Committee reviews audit reports... The Legislative Audit Committee considered the following audit reports at its June meeting:

### Financial Audit:

- Montana Water Pollution Control and Drinking Water State Revolving Fund Programs (08-29)

### Performance Audits:

- Emergency Medical Services (EMS) (07P-11)
- Improving Montana's Opencut Mine Permitting Process (08P-04)
- Program and Policy Issues Impacting State Superfund Operations (08P-05)
- Montana School for the Deaf and Blind (07P-13)

## ENVIRONMENTAL QUALITY COUNCIL

Developers, regulators, and many others involved in the state's handling of an air-quality permit for the Highwood Generating Station, a coal-fired power plant proposed near Great Falls, recently appeared before the Environmental Quality Council's Agency Oversight Subcommittee.

The full EQC meets July 14-15 and is expected to discuss the subcommittee's June 10 meeting and the nearly three hours of public testimony.

Studies on climate change and conservation easements on trust lands also will come before the EQC, as the council closes in on its interim efforts.

Agency Oversight Subcommittee... The EQC Agency Oversight Subcommittee met in June to discuss the Board of Environmental Review's decision to require Southern Montana Electric Generation & Transmission to implement more stringent pollution controls at its proposed power plant.

In April the BER voted 6-1 that the proposed 250-megawatt coal-fired power plant's air permit needs further review because the plant failed to identify best available control technologies (BACT) to limit particulate matter called PM-2.5. With the decision, Montana became the first state to require a project examine maximum reductions in PM-2.5 emissions.

The Montana Environmental Information Center and the Great Falls-based Citizens for Clean Energy had challenged the Department of Environmental Quality's best available control technology analysis for PM-2.5. The BER voted to remand the permit to DEQ for Southern Montana Electric Generation and Transmission Cooperative, Inc., to conduct a top-down BACT analysis for predicted PM-2.5 emissions at Highwood.

Supporters of the plant told the subcommittee that the BER's decision sends the wrong message to industry and continues to increase costs of developing the project. Supporters of the BER decision said it is a step toward improving public health and is not a major obstacle for plant developers.

Conservation easement study... At the July meeting, the EQC will review public comments on the study examining options for establishing conservation easements on trust lands. The draft report for the HJR 57 study was released for public comment in June.

The study found that the Land Board has several legal options when it comes to state trust land and conservation methods. The draft report does not suggest any legislation, but it does include a brochure that explains the basic elements of conservation easements.

The public also will have an opportunity to provide comment on the draft report at the July meeting. The final report will be presented in September.

Climate change study...A series of discussion bill drafts and reports are being developed by staff in conjunction with the EQC's climate change study.

The discussion drafts include ideas for promoting recycling, providing incentives for using Montana materials in food production, enhancing mass transit opportunities, expanding funding sources and options for low-income weatherization projects, and requiring new state buildings to exceed building standards for increased energy efficiency.

During the July meeting the council will review the discussion drafts and reports. The drafts and reports will be revised and, if approved, released for formal public comment in August. Final decisions on bill drafts that may be introduced will be made in September.

For more information, about the EQC, contact Todd Everts, at [teverts@mt.gov](mailto:teverts@mt.gov) or (406) 444-3747; Joe Kolman at [jkolman@mt.gov](mailto:jkolman@mt.gov) or (406) 444-9280; or Sonja Nowakowski at [snowakowski@mt.gov](mailto:snowakowski@mt.gov) or (406) 444-3078. The EQC website is [www.leg.mt.gov/eqc](http://www.leg.mt.gov/eqc).

The future of water policy studies...Subcommittees of the EQC and the Water Policy Interim Committee met in June to discuss how water policy should be studied in future interims.

The WPIC, created by the 2007 Legislature to study water policy this interim, has supported the idea that water policy should be regularly studied by the Legislature.

From 1985 to 1995, there was a water policy interim committee, but those duties were assigned to the Environmental Quality Council. The EQC membership also was expanded to 17 members. In some interims since, the EQC has appointed a subcommittee to study water policy, but water has been a significant part of the EQC's work in each interim since 1995.

In 2007, the creation of the Water Policy Interim Committee was the result of several things coming to a head. In 2005, the Legislature approved a measure to rejuvenate water rights adjudication. In 2006, the state Supreme Court ruled that the use of groundwater wells in the Smith River Basin was affecting senior water rights holders on the river, and the system of permitting used by the state failed to recognize the connection of groundwater and surface water. To deal with that situation, the 2007 Legislature passed House Bill 831 to regulate groundwater appropriations in closed basins.

The WPIC is scheduled to meet 10 times over the interim, and it ventured into closed basins to hear comments from Montanans most affected by water management policies. In addition to Helena meetings, the WPIC held meetings in Dillon, Bozeman, Thompson Falls, Choteau, and Hamilton. The Legislature directed the WPIC to study a wide range of water policy topics in order to develop a clear policy direction and necessary legislation to guide Montana's water policy that ensures fair and reasonable use of the state's water resource as demands on water increase while supplies remain the same or decrease.

The WPIC has fulfilled its duties, but members have said that water policy should be studied more in the coming

years.

The EQC also has worked on water policy, including its statutory oversight of the Department of Natural Resources and Conservation; Fish, Wildlife, and Parks; and the Department of Environmental Quality.

The subcommittee discussed the following administrative and jurisdictional matters:

- Resource Efficiency/Allocation/Cost:
  - Committee costs for legislators (time, travel, salary), legislative staff workload (research staff, secretarial support, and IT support), and executive branch staff workload.
  - Efficient use of legislator, legislative staff, and executive branch resources.
- Committee Jurisdictional Boundaries:
  - Clearly defining administrative jurisdiction boundaries eliminates duplication of effort issues with legislators, legislative staff, executive branch staff, and the public.
  - Water quality and quantity issues impact almost every conceivable natural resource and environmental policy question that comes before the Legislature. Delineating water policy jurisdictional boundaries is feasible but will take some thought.

The subcommittees also discussed legislator workload, development of legislator subject expertise, and public involvement.

The two subcommittees considered the following options:

- Option A: status quo;
- Option B: make the WPIC permanent. The EQC and the WPIC would have to coordinate efforts;
- Option C: maintain water policy development within EQC and allow it to establish a water policy subcommittee;
- Option D: maintain water policy development within EQC and statutorily create a standing water policy subcommittee of the EQC;
- Option E: assign water policy development to another interim committee.

The subcommittees did not make a recommendation, but will meet again in July. More information is available at [http://leg.mt.gov/css/lepo/2007\\_2008/subcommittees/eqc\\_wplic/eqcwplic.asp](http://leg.mt.gov/css/lepo/2007_2008/subcommittees/eqc_wplic/eqcwplic.asp).

## WATER POLICY COMMITTEE

Committee working on final report and bill drafts...A draft report and possible legislation regarding water policy will be available for public comment during July.

The Water Policy Interim Committee was created by the 2007 Legislature to study a wide array of water issues. After more than a year of work, the committee is preparing a final report that will include findings, recommendations, and possibly legislation.

The first draft of a report by the Montana Bureau of Mines and Geology is available online. The Legislature asked the bureau to do case studies and report its findings to the WPIC.

At its June meeting, the WPIC agreed on some general ideas that will be put in bill draft form, be made available for public comment, and then further debated at the August meeting. The WPIC meets in September to finish its work.

The committee asked that the following ideas be drafted as possible legislation:

- fund a groundwater study to learn more about groundwater resources and management;
- revise water quality laws regarding aquifer recharge and mitigation;
- increase the role of the attorney general and the water court in enforcing water rights;
- provide an expedited water right permit process for subdivisions that use a public water supply system;
- create a loan program to provide an incentive for public water and sewer systems; and
- amend the water right permit process to make it easier and faster.

The report, draft legislation, and all committee materials are available online at [www.leg.mt.gov/water](http://www.leg.mt.gov/water).

Comments may be submitted by email to [jkolman@mt.gov](mailto:jkolman@mt.gov). Please put "water" in the subject line.

To submit comments by mail, send to: Joe Kolman, Legislative Environmental Policy Office, P.O. Box 201704, Helena MT 59620-1704.

Next meeting in August...The next meeting of the WPIC is Aug. 12-13 in Helena. For more information, contact Joe Kolman at (406) 444-9280 or [jkolman@mt.gov](mailto:jkolman@mt.gov).

## STATE-TRIBAL RELATIONS COMMITTEE

When deadlines don't fit...The State-Tribal Relations Committee met June 23-24 on the Flathead Reservation. Coverage of the meeting will be included in the August issue

of the interim newsletter. The committee will meet for the last time this interim on Aug. 21. For more information, check the committee website or contact Pat Murdo, committee staff, (406) 444-3594 or [pmurdo@mt.gov](mailto:pmurdo@mt.gov).

## FIRE SUPPRESSION COMMITTEE

Spring tour '08...No roadies were employed, no t-shirts were sold, and no autograph hounds crowded backstage, but the members of the Fire Suppression Committee persevered despite the adversity and completed their statutorily-required tour of the state with stops in Hamilton, Lewistown, Miles City, Seeley Lake, Thompson Falls, and Libby. The crowds in attendance would not pack Wembley Stadium, but they did fill several of the meeting rooms and those who participated provided the committee with valuable and varying perspectives on wildland fire suppression, hazardous fuels mitigation, and the important role of local and volunteer fire agencies.

Beginning in the Bitterroot...The committee began its tour in Hamilton with an opportunity to question the Department of Natural Resources and Conservation, Bureau of Land Management, and Forest Service officials about state and federal land management policies and suppression strategies, particularly reduction of hazardous fuels; who should be responsible for structure protection and suppression; how the Forest Service implements "wildfire use";<sup>1</sup> and what should happen when a wildfire use fire burns onto state or private land. Recurring themes during the Hamilton meeting were problems resulting from shrinking or flat budgets, fuels reduction and what that means to the agencies and different advocacy organizations, and the effects (for good or ill) of lawsuits and appeals challenging certain fuels reduction projects. The committee visited two areas in the Bitterroot valley to view the results of fuels reduction work.

Different landscape, different values...In Lewistown and Miles City, focus shifted to grassland fires, what residents of those areas consider to be values in need of protection from fire, and the work being done by local agencies and volunteer firefighters. Those who spoke to the committee in both cities praised DNRC's County Cooperative program, in which the state agency provides equipment and training to the local entities that, more often than not, are the first responders to fires. Local fire chiefs, firewardens, volunteers, and county commissioners told the committee that more funding, more equipment, more staff, and continued support of DNRC's programs are needed to continue the effectiveness of local fire suppression services. Grass fires burn hotter and faster than most forest fires and

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<sup>1</sup>The Forest Service defines wildfire use as "the management of naturally ignited wildland fires to accomplish specific pre-stated resource management objectives in predefined geographic areas outlined in Fire Management Plans."

many residents of eastern Montana are dependent on grass for their livelihood. A fire chief who spoke to the committee in Miles City said he has heard residents tell firefighters to let the house burn and save the grass. The house is insured, the grass isn't.

As the population ages, the committee learned, local fire agencies are having difficulty recruiting and retaining volunteer firefighters. Fire chiefs and firewardens asked the committee for help to encourage participation by younger people and provide incentives to employers of volunteers.

Northwestern swing....Although Seeley Lake was not among the cities the committee is required to visit, members added a stop there when adopting their work plan last November. The 2007 Jocko Lakes fire nearly destroyed that community and the area is considered by some to be ground zero when it comes to development in the wildland-urban interface.

In addition to interested members of the public, scheduled to present are: Bud Moore, 90-year-old resident of the Seeley-Swan valley and a well-known landowner whose Coyote Forest has been cited as an example of innovative forest land stewardship; representatives of the tourism industry, Pyramid Lumber, Plum Creek, and the Forest Service; and the chief of the Seeley Lake Fire Department.

The meeting in Thompson Falls consists of an evening public hearing. Libby's agenda includes discussions with state and federal agency staff from northwest Montana, lumber business owners, the Kootenai Forest Stakeholder group, and a representative of Communities for a Great Northwest.

Look for details of the Seeley Lake, Thompson Falls, and Libby meetings in an upcoming issue of the interim newsletter.

Shape of Things to Come...The Rocky Mountain Front also experienced extreme fire activity last summer. While it is not required in the legislation that created the committee, several members are interested in holding a public hearing in the area. That hearing is scheduled for Aug. 20 at the Stage Stop Inn in Choteau, beginning at 9 a.m.

The committee may meet on another date in August for a work session to finalize directions to staff and intends to complete its work and issue final recommendations on Sept. 12.

For more information about the Fire Suppression Committee, visit its website or contact Leanne Heisel at lheisel@mt.gov or (406) 444-3593.

## LEGISLATIVE FINANCE COMMITTEE

June Meeting...The Legislative Finance Committee met on June 5-6. The agenda and reports are available at

www.mt.gov/lfc. For more information contact Clayton Schenck at cschenck@mt.gov or (406) 444-2986. The performance measurement work group met Thursday morning. The full committee meeting included a variety of reports and updates on subcommittee and work group activities. The committee took action of several items. The following provides a summary by meeting topic.

Status of School Funding Lawsuit...Last February, the Montana Quality Education Coalition filed a show cause motion with the District Court in Helena requesting that the court review whether the state has adequately funded the K-12 system of public education. The state responded that sufficient change in the method of funding K-12 schools in Montana had been accomplished and that the matter was moot. The District Court denied the state's claim and allowed the suit to go forward.

The District Court noted that evidence submitted by the plaintiffs indicates that the changes since 2005 "account for only 5.4 percent of statewide general fund budgets in the current fiscal year. Thus some 95 percent of school funding is still provided through the same formula that existed at the time of the trial of this case." The District Court, however, put the burden of proof on the plaintiffs to show that the current system does not provide adequate resources for the K-12 education.

A scheduling order for the show cause proceedings has been published for the next several months. The hearing is set for Sept. 22 (or a week later if the court's docket is unavailable on that date). Plaintiff's identification of witnesses and exhibits was June 12. Defendant's identification of non-expert witnesses, exhibits and subject matter of expert testimony is July 10. The deadline for all expert disclosures is Aug. 14. Closing of prehearing discovery is Sept. 5. Submission of prehearing findings, conclusions, and memoranda is Sept. 12. A prehearing conference will be held Sept. 10.

For more information, contact Jim Standaert at jstandaert@mt.gov or (406) 444-5389.

Acquiring Space for State Agencies--Statutory Options...The committee requested draft legislation to add requirements for acquiring office space for state agencies. The new requirements are modeled on legislation recently passed in Washington to deal with concerns similar to those in Montana. A working group made up of Reps. Jon Sesso (chairman) and Janna Taylor and Sen. Dave Wanzonried was appointed to work with staff, the executive branch, and other legislative committees considering similar legislation. The group will use the concepts contained in the Washington legislation but make them specific to Montana. The working group will report to the full committee in October.

For more information, contact Greg DeWitt at gcdewitt@mt.gov or (406) 444-5392.

Spending Non-General Fund Money First--Statute Issues...The LFC heard a report about statutory requirements for using other funds to offset general fund

costs when it is possible to do so. Legislative Fiscal Division and Legislative Audit Division staff have concluded that state law requires an agency to offset general fund costs whenever there are excess state special revenue or federal revenue that can be legally used to lower general fund costs. However, legislative legal staff said that the requirement under 17-2-108, MCA, to offset general fund costs applies only to expenditures within a single program rather than requiring all available non-general fund revenue sources in an agency be used to offset general fund costs.

Section 17-7-301(1), MCA, requires that a state agency determine that the amount actually appropriated for the first fiscal year of the biennium with all other income will be insufficient to pay a general fund cost in determining whether to move funds from the second year of the biennium into the first year. Part of the problem is that "income" is not defined. In addition, 17-7-301, MCA, does not require a general fund cost overrun to be offset by income.

The LFC requested a bill draft that would define income as it is used in 17-7-301(1), MCA. The committee postponed requesting changes to statutes that would require that excess non-general fund be used to offset general fund costs.

For additional information, contact Lois Steinbeck at lsteinbeck@mt.gov or (406) 444 5391.

Rainy Day Fund – Proposal and Options for a Committee Bill... Staff presented a report that discussed options for creating a rainy day fund, or "budget stabilization account". The options were based upon SB 137 from the 2007 session (that bill did not pass). The committee requested a bill draft similar to the SB 137 proposal for review in October. According to the National Conference of State Legislatures, only three states, including Montana, do not have a rainy day fund.

For more information, contact Jon Moe at jonmoe@mt.gov or (406) 444-4581.

Student Loan Availability in Montana and the Impact of the Bond Market Problems... Bond market problems have affected student loan financing services at the Montana Higher Education Student Assistance Corporation (MHESAC). Staff presented a report on how this problem has affected student loans for Montana resident students. Since early this year, MHESAC bond holders have been unable to sell approximately \$1.25 billion of MHESAC bonds on the auction-rate bond market, causing MHESAC costs to increase by \$14 million. The cost increase has led to staff reductions and reductions of student loan benefits and services. Student loan providers across the nation are facing similar bond market problems, and many of those organizations have stopped making student loans.

MHESAC reported that it has \$175 million of financing in place to support student loans for resident students for the next academic year, but there is uncertainty beyond that. Staff reported that recent changes to the federally funded guaranteed student loan program, which includes the Montana Guaranteed Student Loan program, have alleviated most of the immediate concerns nationally

about loan financing for the next year. What federal changes may be made beyond that is not clear.

Because of this uncertainty, the LFC requested a bill draft resolution for an interim study of the guaranteed student loan program. The study would compare the program with the federal direct student loan program, including costs and benefits of each program. The study would also identify options for providing student loans for higher education.

For more information, contact Alan Peura at apeura@mt.gov or (406) 444-5387.

Statutory Appropriations and General Fund Transfers Bill Drafts--DOJ Request... The Legislative Finance Committee approved two preliminary bill drafts dealing with general fund transfers and statutory appropriations.

LC 65 would eliminate the general fund transfers contained in 15-1-122, 17-1-511(2), and 77-1-108(4)(a), MCA.

LC 66 would make the following changes in statutory appropriations:

- eliminate the statutory appropriations contained in 10-2-603, 17-7-304, 44-1-504, 53-6-703, 75-5-1108, 75-6-214, 80-5-510, and 87-1-513, MCA;
- consolidate into one statutory appropriation those contained in 23-4-105, 23-4-202, 23-4-204, 23-4-302, and 23-4-304, MCA; and
- eliminate the invalid statutory appropriation contained in 75-10-622, MCA.

At the request of the Department of Justice, the committee is also proposing the elimination of the statutory appropriation for highway patrol officers' salaries under 44-1-504, MCA. The committee emphasized that the aim is not to eliminate programs, but to change the method of funding to HB 2 appropriations. The committee requested that bill drafts be made available for public comment.

For more information, contact Roger Lloyd at rlloyd@mt.gov or (406) 444-5385.

Study of Budget and Appropriations Process... Based upon recommendations of the subcommittee, the LFC took a number of actions:

*Statute Review:* The purpose of this review was to identify budget appropriation statutes that needed correction, clarification, or other changes to correct errors, resolve disparities between statutes and implementation or conflicting statutes, or to deal with process or policy concerns. The study identified 145 statutes in its initial inventory, and the LFC considered 29 of those: 17 with "housekeeping" changes, 10 with policy clarifications, and two with budget implications. The committee requested several bill drafts to implement the recommendations. In addition, staff recommended a review of 70 of the remaining statutes be included in the LFD work plan next interim.

For additional information, see the report and summary of decisions on this topic for details, or contact Pam Joehler at pjoehler@mt.gov or at (406) 444-2722.

**Budgeting for Fixed Costs and Inflation:** The committee voted to include in its recommendations to the 2009 Legislature that when reviewing internal services funded proprietary programs that the appropriations subcommittees not approve any decision packages that do not include quantifiable and meaningful rate impact information. The recommendation was made after staff said that the absence of such information inhibits the Legislature's ability to adequately evaluate the rates of the internal service funded programs.

For more information, contact Greg DeWitt at [gcdewitt@mt.gov](mailto:gcdewitt@mt.gov) or (406) 444-5392.

State Fund Study...The members of the subcommittee met on June 5 to consider topics on the Montana State Fund (MSF) and the workers' compensation insurance system.

Staff presented a report that compares the oversight of the MSF by the Legislative Audit Committee with the oversight of private insurance companies by the State Auditor's Office examined the procedures followed by both agencies. The report concluded both MSF and private insurance companies are required to have audited financial statements, actuarial opinions, and independent verification of loss reserves conducted by an independent actuary. Private insurance companies are also required to file rates, have market conduct examinations to review insurance company actions regarding sales, advertising, rating, and the handling of claims, and have annual and quarterly desk reviews, as well as in-depth financial examinations conducted every 5 years.

It would appear the legislative oversight provided by the Legislative Audit Committee is sufficient to ensure the financial statements of MSF are fairly presented, and that the rates are not considered excessive, inadequate, or unfairly discriminatory. If the Legislature wishes assurances that MSF's actions in regard to sales, advertising, rating, and the handling of claims are appropriate, it could request LAD include a performance audit of these areas in the future or as part of the performance audit currently being conducted by LAD. The subcommittee recommended legislation to require regular performance audits of MSF. The Legislative Finance Committee approved the recommendation for committee bill to expand legislative oversight of MSF through performance audits.

Staff also presented a report on Montana State Fund premium assessments that outlines the various premium modification factors used to determine premiums overall and the differences between the premiums assessed private employers and those assessed to state agencies. The report noted that while the general process for assessing state agencies and private employers is not significantly different, some differences do exist. They include:

- specific state agency class codes and associated loss costs;
- state agency class codes which do not allow for cost comparisons with private business entities;
- higher loss costs for state agency clerical workers

than those determined by NCCI for private businesses in Montana; and

- assessments to individual state agencies rather than the state of Montana as the overall employer.

In addition, the MSF loss costs included underwriting expenses for agent commissions even though state agencies do not use the services of independent insurance agents.

The subcommittee requested a report in October on the policy implications of changing the workers' compensation insurance policy for state agencies. The subcommittee also requested a presentation from MSF on the financial information presented during the budget process which includes accruals for benefits and loss cost adjustments. For additional information, contact Kris Wilkinson at [kwilkinson@mt.gov](mailto:kwilkinson@mt.gov) or (406) 444-5834.

Performance Measurement – Work Group Reports...The Legislative Finance Committee established a performance measurement initiative to determine progress towards agency goals or initiatives related to appropriations. Last October, the committee decided to monitor 167 goals and initiatives from over 800 submitted with the governor's budget. A reporting process was established and the second set of reports was heard at the June meeting. For this reporting period, an improvement was made in the area of providing quantifiable data, including status of expenditures. Five work groups reviewed the responses to determine if the goals and initiatives are being met. Of the 106 goals and initiatives reviewed, 49 were released from review based upon information provided which demonstrated progress. Some examples include:

#### **Successes:**

In the Department of Administration, "The Early Return to Work" program was developed and is being implemented for all agencies. For the first time, injured state employees are being temporarily reassigned to other agencies, if necessary, to get the employee back to productive employment.

In the Montana university system, it is projected that by the end of the 2009 biennium 24 disciplines will have common course numbering and that up to 32 faculty councils that manage this process will have been created (exceeding the original performance measure of 22). It is projected that by the end of the 2011 biennium, all university system courses will have a common course numbering scheme and will appear as part of a web-based transferability matrix.

The New Worker Training program within the Department of Commerce was created to meet the training needs of existing industries in the state and to provide incentives to businesses to locate and expand within the state through government-assisted new jobs training. The performance report from the agency indicates the grants are training more workers at a lower cost than required by statute, as well as leveraging more non-state funds than required by statute. The 2007 Legislature appropriated \$4

million from the general fund each year for this grant program. The agency has fully committed the funds it has available for FY 2008 and has committed some of the funding from FY 2009. Another grant cycle will occur in FY 2009.

#### Challenges:

The Department of Environmental Quality report on the Public Water Supply (PWS) program discussed DEQ's ability to conduct compliance reviews of public water supplies. DEQ is concerned about whether it can complete the reviews for this fiscal year. DEQ is at 54 percent of the goal. Preliminary findings from an EPA review indicate that the department needs about 15 more employees to ensure that Montana's public water supplies are safe.

The nursing staff at the state hospital in Warm Springs continues to be a challenge for the Department of Public Health and Human Services. The hospital established the goal that 90 percent of the scheduled shifts for registered nurses will be filled. The hospital remains short of that goal. By mid-April, 75 percent of the shifts were staffed by RNs (the highest level in the previous 6 months). The 75 percent level includes both employees and contracted nurses. The salaries for RNs were increased the first of the year and that has helped in retaining staff. Consideration of more flexibility in offering pay incentives and benefit packages is ongoing.

The Board of Public Education has a program goal that 100 percent of schools would be in compliance with all content and performance standards set by the board at its March meeting each year. OPI completes an annual accreditation process and measures each school for compliance with the content and performance standards. Schools receive a status of regular, advice, or deficiency. In March 2007, 8 percent of schools were in advice status and 8 percent were in deficiency status. The March 2008 report shows that 93 public schools, or 11.3 percent, are in advice status and 127, or 15.4 percent, are in deficiency status.

In addition, there were common problems across program areas, including delay in recruiting employees because of salary, expertise needed, and travel requirements; changes in implementation plans due to changes in scope of the project related to funding levels; and changes in federal funding or regulations.

The committee will be hearing the remaining 107 items at its October meeting. Reports from the June performance workgroups can be found at [http://leg.mt.gov/css/fiscal/PM\\_Agency.asp](http://leg.mt.gov/css/fiscal/PM_Agency.asp). For more information about the performance measurement initiative, contact Barb Smith at [basmith@mt.gov](mailto:basmith@mt.gov) or (406) 444-5347 or Kris Wilkinson at [kwilkinson@mt.gov](mailto:kwilkinson@mt.gov) or (406) 444-5834.

Other reports on LFD website...Several reports provided to the LFC were not discussed but can be found on the website or requested if interested:

- Historical Society Museum (Heritage Center) Update
- Montana State Hospital Update
- Corrections Populations Projects Update
- K-12 Facility condition and Needs Assessment and

- Energy Audits Update
- Long-Range Planning Work Group – FWP Capital Projects Appropriations Status
- LRBP and LRITP Capital Projects Status Reports

## ECONOMIC AFFAIRS COMMITTEE

Committee discusses new health insurance policy...The Economic Affairs Committee discussed a proposal for a limited individual health insurance policy at a teleconference meeting June 17. The bill draft, temporarily named LC7777, would allow insurance companies to offer individual policies that contain only a few state-related mandates. The committee also reviewed an outline of a final report on HJR 48, which called for a study of health insurance reforms.

One approach to expanding coverage, as discussed by the committee at its May meeting in Missoula, would be to allow insurance companies to write a limited individual insurance policy to see if more individuals would buy a product with fewer mandates and thus increase health insurance coverage among those currently uninsured. The proposed limited benefit plan would have to include federal mandates, including coverage for minimum hospital stays after childbirth, postmastectomy care, and reconstructive breast surgery after a mastectomy. Two state mandates that would remain in the policy are coverage for newborns for 31 days and for severe mental illness, such as schizophrenia and bipolar disorder. Among the excluded state mandates would be maternity coverage, which also would involve amending a portion of the state human rights law called unisex insurance to say that not providing maternity coverage is not discriminating on the basis of sex for the purposes of the limited policy. The committee asked for more information on the potential effects of the policy on benefits, such as coverage for emergency services, and sales potential.

Next meeting in Bozeman...The next meeting of the Economic Affairs Committee will be July 17-18 in Bozeman at Montana State University. Information about that meeting will be posted on the website as it becomes available. Interested persons also can contact Andrew Geiger at [angeiger@mt.gov](mailto:angeiger@mt.gov) or (406) 444-5367.



## STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

The State Administration and Veterans' Affairs Interim Committee met June 30 to complete its work on the HJR 46 study of election laws and to act on legislative proposals of state agencies that would be considered during the 2009 legislative session.

HJR 46 Election study results in bill drafts....The committee has requested four bill drafts to revise Montana's election laws:

- LC 35 is a bill draft the committee has already approved for the general cleanup of election laws. The committee considered potential changes that involve places of deposit in mail ballot elections, mailing requirements for absentee ballots, and school election procedures.
- LC 59 would clarify the handling of absentee ballots when a candidate dies before an election is held;
- LC 106 would allow election administrators to determine the use of accessible voting machines in certain mail ballot elections.; and
- LC 60 would create a mail ballot pilot project. This draft included changes made by the committee in April and on information gathered since then.

Sponsors for the bills have not been identified yet. The bill drafts are available on the committee's webpage and on the LAWS system on the Legislature's website.

State agencies legislative proposals...Five of the state agencies and entities within the committee's purview presented a total of 38 proposals for legislation. A sample of the proposals includes:

- implement the standards and requirements essential for compliance and process improvements for e-records information management. (Secretary of State)
- revise or implement a fee structure for and allow for the online delivery of services for the Administrative Rules of Montana to accommodate traffic on a new online system. (Secretary of State)
- require mandatory e-filing of required political reporting with a simple, opt-out system; eliminate the requirement for concurrent filing of reports with county election administrators in order to ease this burden on local government. (Commissioner of Political Practices)
- require disclosure of late campaign expenditures by independent committees in order to help voters discern the source of new information that comes late in campaigns. (Commissioner of Political Practices)
- require itemization of sub-vendor details for campaign consultant expenditures to enhance consistency with other aspects of campaign reporting law. (Commissioner of Political Practices)

- establish a methodology to address the deferred maintenance backlog for state buildings. (Department of Administration)
- revise various provisions of the Mortgage Broker and Loan Originator Licensing Act and the Residential Mortgage Lender Licensing Act to address issues stemming from the national, subprime mortgage crisis. (Department of Administration)
- eliminate the Montana Consensus Council. (Department of Administration)
- require employer contributions on working retirees in the systems that currently allow working retirees – PERS, JRS, SRS, FURS. (Public Employees' Retirement Administration)
- funding concerns of certain “return to work” issues and TRS members terminating just a few days prior to the end of their contract. (Teachers' Retirement System)

All of the proposals have been posted to the committee's webpage.

Next meeting scheduled for September...The committee is scheduled to meet Sept. 15, but the committee will have decided, at the June 30 meeting, whether to hold the meeting. The primary agenda item for that meeting, if held, would be wrapping up the HJR 59 study of public employee retirement systems. For more information, contact Dave Bohyer, committee staff, at dbohyer@mt.gov or (406) 444-3064, or to the committee's presiding officer, Rep. Franke Wilmer, at (406) 599-3639.

## CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE

EMS bills get first airing...During its June meeting, the committee reviewed and took public comment on the initial version of six bill drafts prepared as part of its study of emergency medical services (EMS). The bills were designed to help EMS providers buy equipment and recruit and retain personnel.

Included as part of the committee's SJR 5 study of emergency medical care, the bills would:

- provide tax credits for volunteer emergency medical technicians (EMTs) and tax deductions for employers who give their workers time off to respond to EMS calls;
- create a grant program to help volunteer agencies buy vehicles and equipment;
- create a special license plate for volunteer EMTs; and
- make statutory changes that would allow lower staffing levels on some ambulance runs, provide confidentiality protections to organizations that review EMS calls for quality improvement purposes, and add an EMT to the Board of Medical Examiners.

The bills reflect the committee's desire to help volunteer agencies in areas that make it difficult for them to continue to provide emergency medical care. A number of interested parties provided public comment, which will be used to help to refine the bills before the committee takes final action on them in August.

Audit reviews state oversight of EMS system...The Legislative Audit Division presented the results of its performance audit of the Department of Public Health and Human Services, which oversees EMS providers, and the Board of Medical Examiners, which oversees EMTs.

Among other things, the audit recommended that DPHHS determine how to overcome gaps in service by Advanced Life Support providers and better coordinate services provided statewide, improve its collection and analysis of data on EMS response times, implement its plan for an electronic information system, and take steps to strengthen its regulation of EMS providers. The audit also said the two agencies should seek legislation to clarify which agency is responsible for handling EMS-related complaints.

The audit was undertaken separately from the SJR 5 study, but committee members will consider its recommendations as they finish work on the study.

Mental health study beginning to identify gaps...The consultant hired to study Montana's publicly funded mental health system provided an update on the study, including an early look at information gleaned from an analysis of payments made for mental health services.

Richard Dougherty of DMA Health Strategies said that interviews with agency officials and key stakeholders, along with a preliminary review of the data, have shown that:

- eligibility requirements for publicly funded services place significant limits on who may receive benefits;
- many people discharged from the Montana State Hospital are not eligible for medications or services when they return to their communities;
- some patients must wait up to six months to see a physician;
- contracts for community mental health services don't contain performance measurements based on patient outcomes; and
- a significant amount of funding goes to medications and to mental health diagnoses made by providers outside the traditional mental health system, such as primary care physicians.

Although DMA will not present its final report until October, Dougherty said recommendations are likely to include--among other things--a greater emphasis on crisis stabilization services, a greater degree of coordination between the state hospital and community providers in planning for patients who are leaving the hospital, and ideas for supplementing the state's mental health dollars with federal funds.

Mental health survey online...As part of its study,

DMA Health Strategies is asking Montanans to complete a web-based survey about the state's mental health system. People who have not yet completed the survey can access it on the Mental Health Study page of the committee's website under "Assigned Studies" at [www.leg.mt.gov/cfhhs](http://www.leg.mt.gov/cfhhs).

Doctors, hospitals, and insurers--oh, my!....Discussions related to the SJR 15 study of Montana's health care delivery system highlighted the maze that faces patients, providers, and payors in the world of American health care. A subcommittee assigned to look at economic credentialing and specialty hospitals continued to work on draft legislation related to economic credentialing. That legislation also would require disclosure by health care providers of any investment, employment, or financial interest if they refer their patients to other health care providers or facilities. A revised bill draft is to be available in July.

A discussion on specialty hospitals, which tend to be for-profit hospitals owned by physicians, stayed on the back burner pending expectations that Congress may further restrict physicians from owning specialty hospitals. If Congress does not act by August, the committee may review whether to extend the existing Montana moratorium on specialty hospitals or revise the current laws on specialty hospital licensing.

Meanwhile, a panel discussion focused on how insurers credential physicians, which can be both an assurance to patients of their doctor's competence and a wallop to the patient's pocketbook if the insurer decides that the physician is not going to be on its list of preferred providers. Dr. Patsy Vargo of Great Falls voiced her concerns that insurers have gained authority to limit a patient's access to care through the credentialing process. Theresa Stahly described Blue Cross Blue Shield's credentialing activities and noted that 93% of the doctors in Montana are part of the Blue Cross network. Jeannie Worsch described the Board of Medical Examiners' licensing process, which duplicates some of the insurers' work. Dr. Bob Shephard of New West Health Services noted that insurers can be more critical of who is in their networks than the Board of Medical Examiners can be when licensing physicians. He also described the impact on the patient's pocketbook of going out of network.

Other SJR 15 topics discussed...As part of the SJR 15 study, Peggy Bourrassa of Big Sky Hospice in Billings described the comfort and palliative care that hospices provide to the terminally ill and their families. In Montana, most hospice workers visit people in their homes, whether it's the family home or an assisted care facility or nursing home. Some cities have hospice residences. Bourrassa noted that hospice care may pay for medications, wheelchairs, respite care for families providing care to a terminally ill patient, and grief counseling. The program is aimed at giving patients quality of life in their final weeks or months, according to Sherry Regensburger, a nurse with St. Peter's Hospice in Helena. She quoted a Duke University researcher who praised the program not only for its

emphasis on quality of life but also its to reduce the cost of health care.

In other SJR 15 matters, the committee:

- asked for more information on how Montana hospitals interact with patients to address medical debt through the use of credit.
- agreed to support a request for a system that will allow doctors to update and share patient records electronically. The committee will send a letter to Gov. Brian Schweitzer asking him to include \$1.5 million in his budget to help pay the start-up costs of the system.

Medicaid "buy-in" program discussed... DPHHS has submitted a budget proposal to fund Medicaid benefits for people with disabilities whose earnings would otherwise make them ineligible for Medicaid, and committee members heard why the program is needed.

Travis Hoffman of the Summit Independent Living Center in Missoula told the committee that many people with disabilities would like to work. However, if they have been receiving Social Security Disability Income payments and go back to work, they lose their eligibility for Medicaid long before their earnings are high enough to afford the specialized health care services they rely on and which regular insurance doesn't cover.

Hoffman said the Medicaid "buy-in" program would allow participants to enter or re-enter the workforce while allowing them to pay a premium, based on their income, to participate in the Medicaid program. The program would increase the amount of income and resources they are currently allowed, and Hoffman said that in turn would decrease their dependency on other public benefit programs and allow them to contribute to their communities and the economy.

Hoffman also talked about working with other independent living centers to collect information on the employment experiences of 377 Montanans with disabilities, as well as with the state and other disability and employment-related organizations to determine what a buy-in program could look like in Montana.

Gail Brieze-Zimmer of DPHHS said the agency's budget proposal would allow it to start the program in January 2010. The department estimates that it could provide benefits to about 43 people in the first year and 85 people in the second year of the biennium, using about \$191,000 in state funds and \$315,000 in federal funds. The proposal is under review by the governor's budget office.

Hunger a growing problem... Minkie Medora, representing the Montana Dietetic Association and the Montana Food Bank Network, discussed several efforts the groups plan to support at the state level to improve nutrition and health for at-risk Montanans.

Medora focused, in part, on the need for DPHHS to change its rules for determining how much money people can make and still remain eligible for Food Stamps. Medora noted that federal law gives states a great deal of flexibility

in setting eligibility levels, but Montana's guidelines have remained generally low. Eligibility is limited to people with an income of up to 130 percent of the federal poverty level. DPHHS has started an internal review process to change the eligibility guidelines, she noted. DPHHS is currently examining how it might change its eligibility rules.

The committee agreed to support a change in DPHHS rules to allow more families to qualify for Food Stamps. The committee will send a letter to the agency in advance of a scheduled July 14 meeting at which the state's options for setting eligibility requirements will be discussed.

DPHHS update.... Department of Public Health and Human Services officials brought the committee up to speed on a number of agency-related items, including a new program to provide intensive services to children with autism. The department is awaiting federal approval of its plan to provide about \$40,000 worth of therapeutic services annually to 40 children between 18 months and 5 years of age. Deputy Director John Chappuis said the investment in early intervention could save the state millions of dollars in the long run, because the children could become more self-sufficient as adults than they would be without the services.

Director Joan Miles also told the committee:

- The addition of new child welfare caseworkers appears to be reducing the number of children placed in foster care. The 2007 Legislature approved funding for 20 new employees. Miles said the department is able to do more work with struggling families before they reach the point where their children must be placed in foster care.
- The agency plans to have a pilot project in place by January for reimbursing home health care agencies that provide a certain level of health insurance to their employees. The 2007 Legislature authorized the project, and the agency has been working out the details for putting it in place.
- A work group is close to finishing recommendations for background checks of direct care workers, as part of the SJR 7 study authorized by the 2007 Legislature.

Stay tuned... The committee will meet Aug. 21-22 to wrap up all of its interim work except the mental health study. The final report for that study will be presented in October. The August meeting will be held in Room 102 of the Capitol, in Helena. Details will be posted on the committee's website, [www.leg.mt.us/cfhhs](http://www.leg.mt.us/cfhhs), as they become available. Please contact Sue O'Connell at 406-444-3597 or [soconnell@mt.gov](mailto:soconnell@mt.gov) for more information about committee activities.

## LEGISLATIVE COUNCIL

Council meets in June... The Legislative Council met on June 24. Coverage of the meeting will appear in next month's interim newsletter. The agenda, meeting material, and audio recordings of the meeting are available on the council's website.

Officers of legislative agency committees meet... The chairs and vice chairs of the Legislative Council, Legislative Audit Committee, and Legislative Finance Committees met on June 6 to go over their administrative and management responsibilities. They will meet again in September to review information prepared by the directors of the legislative agencies.

Reminder to legislators going to July NCSL meeting... Legislators who are attending the July meeting of the National Conference of State Legislatures in New Orleans should contact Susan Fox as soon as possible. Interested persons frequently contact Legislative Services Division to find out who is attending the meeting.

For more information about the Legislative Council, visit the council's website or contact Susan Byorth Fox at [sfox@mt.gov](mailto:sfox@mt.gov) or (406) 444-3066.

## REVENUE AND TRANSPORTATION COMMITTEE

Subcommittees to meet July 10... The SJR 31 subcommittee on taxation and school funding is meeting Thursday, July 10 at 9:30 a.m. in Room 102 of the Capitol. It will review alternative school funding mechanisms and will hear an update of the most recent Montana Quality Education Coalition lawsuit challenging whether the state adequately supports K-12 public education. The subcommittee will spend time discussing school funding and taxation.

The HB 488 subcommittee on property reappraisal will also meet July 10 at 8 a.m. in Room 137 of the Capitol. Mary Whittinghill, of the Montana Taxpayers Association, will discuss the highlights symposium on property taxes held in Austin, Texas. The Department of Revenue will provide updates on property reappraisal and on a housing market trend analysis. The subcommittee will hear a proposal on limiting growth in taxable value of agricultural land and residential and commercial property. Finally, the subcommittee will discuss alternatives that may be considered in dealing with the effects of periodic property reappraisal.

Full committee to meet July 10 and 11... The Revenue and Transportation Committee will meet Thursday, July 10 at 3 p.m. in Room 137 of the Capitol and Friday, July 11 at 8 a.m. in the same room. Thursday afternoon, the

Department of Transportation will discuss its legislative proposals for the next session and will provide an update on the Highway 2 project. The Department will also discuss the effects of rising costs and uncertain revenue on highway projects.

On Friday, the committee will discuss two bill drafts dealing with establishing a conforming date with federal income tax law and hear an update on recodifying the state's individual income tax law. The Department of Revenue will discuss its legislative proposals for the next session, provide an update on the realty transfer certificate project, and present other reports.

Want to be in the loop?...The agendas and other material for the July meetings will be posted on the committee's webpage. For more information about the committee, contact Jeff Martin, committee staff, at (406) 444-3595 or [jmartin@mt.gov](mailto:jmartin@mt.gov).

## RTIC/LFC SUBCOMMITTEE

RTIC and LFC subcommittee meeting... A subcommittee consisting of members of the Revenue and Transportation Committee and the Legislative Finance Committee held a conference call in early June to discuss whether to recommend to the full committees joint sponsorship of a study bill to examine the long-term effects of changing demographics in Montana on governmental revenue and expenditures. Members of the joint subcommittee agreed that the Legislature should conduct the study. The joint subcommittee will meet again on Wednesday, July 9 at 4 p.m. in Room 102 of the Capitol. The subcommittee discuss elements that should be included in the study, the study committee structure, entities that may be involved in the study, and the cost of the study.

If the subcommittee approves a bill draft later this summer, it will be presented to each of the full committees for joint sponsorship.

An agenda and other material for the July meeting will be posted to the LFC and RTIC websites. For more information, contact Jeff Martin at (406) 444-3595 or [jmartin@mt.gov](mailto:jmartin@mt.gov), or Clayton Schenk at (406) 444-2986 or [cschenck@mt.gov](mailto:cschenck@mt.gov).

## EDUCATION AND LOCAL GOVERNMENT COMMITTEE

HB 49 subcommittee reviews bill draft... The House Bill 49 subcommittee, established by the Education and Local Government Committee, is working on a bill draft for a "uniform act" to guide the creation and operation of certain special districts, including parks, cemetery, water, sewer, county fair, and mosquito control districts (among others). The subcommittee met May 29 and directed staff to make technical changes to the current bill draft and include a more

specific bonding provision. The changes will be discussed at the subcommittee's next meeting July 29 in Helena. More information about the subcommittee's work and a copy of the draft bill can be found by going to the Education and Local Government Committee's website at [www.leg.mt.gov/elgic](http://www.leg.mt.gov/elgic) and clicking on HB 49 - Special Purpose Districts link under

"Subcommittees".

For more information about the subcommittee, contact Hope Stockwell, subcommittee staff, at [hstockwell@leg.mt.gov](mailto:hstockwell@leg.mt.gov) or (406) 444-1640.

## THE BACK PAGE

### LEGISLATORS GO BACK TO SCHOOL

By Andrew Geiger  
Legislative Research Analyst

The United States has the largest and most diverse higher education system in the world beginning with William and Mary College (with Harvard's chronological dispute duly noted). Students have a wide variety of choices, including on-line classes, to obtain the education they need to achieve their career and life goals. Montana's university system reflects these opportunities, as students have choices from larger campuses in Bozeman and Missoula that reach out to all corners of the state (and with tribal and private colleges adding to the higher education opportunities). Although state colleges are well known to Montana residents, not everyone is aware of how they stack up in such competitive areas as academic research. The Economic Affairs Interim Committee is on a fact finding mission to see how Montana's public universities are faring in high-tech research compared to their counterparts across the country. This article provides an update of this legislative study before the Economic Affairs Interim Committee, and the impact to the state's economy:

#### RESEARCH FOR THE SAKE OF RESEARCH?

University professors hold a unique identity in the minds of many. Portrayed in movies as everything from altruistic mentors to academic tormentors (John Houseman's famous character counts as both), various stereotypes are embraced by anxious college freshmen. Many people who have completed their undergraduate degrees do not have a full understanding of the professional life of their professors beyond the classroom. By way of a primer into this world, the legislative committee began to examine the life of a research faculty. One emerging view from interviews conducted by legislative staff, and the first of two committee hearings, is that there is a common misperception that a faculty member's research competes with the mission to educate through traditional lectures in the classroom. There is pressure to focus on those activities that gain peer approval, best summed up by the overused and trite phrase: "publish or perish." But research faculty on Montana's campuses say there is a symbiotic relationship between the classroom and the lab. This is not to say that academic peer review is anything other than competitive, and progress on the research front is needed to advance one's career; but faculty members say they are better teachers because they know the latest technical aspects of their field and that they are able to enhance a student's education from academic classes by bringing them into the research world.

Graduate students, and increasingly many undergraduate students, are an indispensable component in keeping high tech and scientific research labs up and running. They put in long hours completing some of the more grinding tasks that

are needed to provide the data used in complex analysis. So what are these professors and their research assistants involved in on a daily basis and what are the outcomes of their efforts? It is impossible to summarize all of the research activities happening across the state, but there are some common components to the research efforts. The scientific process requires that research be free from output-based methods. Each research team is exploring options in any given scientific area in order to understand broad facts, rather than specific outcomes or products. It is not research for research's sake, as discoveries made in Montana's universities are being used by private companies and for public initiatives. Two examples with geopolitical ramifications from each of the two main campuses will help illustrate.

Professor Brent Ruby in the Department of Health and Human Performance at the University of Montana heads up a research unit that is looking at athletic performance under high stress conditions. In an Olympic year, one's mind goes to the importance of such research to the world class athlete, yet Dr. Ruby's team has one target audience with potentially much greater global ramifications. The funding for his research comes from the Department of Defense, and with an Air Force liaison working next to his graduate students, discoveries made regarding nutrition and the physical strain placed upon the human body are being applied to training and medical treatment for armed services members deployed in ongoing military engagements.

Likewise, in the Veterinary Molecular Biology Department at Montana State University, Professor Mark Jutila's research has caught the attention of the Pentagon. One current research project is focused on vaccines and medication to combat various chemical agents that intelligence agencies fear may be deployed through an incident of terrorism. While in different disciplines and areas of study, the experience of the undergraduate, graduate, and post-doctoral students in each lab demonstrate the importance of education through research. All research assistants learn skills and operate high-value equipment that not only furthers intellectual discoveries but is an important part of developing an individual's abilities and making lifelong career choices. At the end of a tour of Jutila's lab in preparation for an upcoming visit by the Economic Affairs Committee, he highlighted some of the equipment his team uses for cell sampling. As undergraduate research assistants plugged away at their work, he commented on which pieces of equipment they allowed him to use. Asked if he was joking, he assured he was not. "We are talking about a high level of technical specialization with what they are doing," Jutila said.

#### WHAT THE NUMBERS SAY

These two examples of funding illustrate the relationship between federal and state government with regard to this type of research. Money for salaries, equipment, and chemicals is procured through a competitive grant process, typically from federal agencies such as the National Science Foundation, The National Institutes of Health, and the

Department of Defense. Montana's university system receives 66 percent of its research funding from the federal government, with both public and private revenue sources coming in at \$172 million for 2007.<sup>1</sup> This number represents a 126 percent increase in research funding in less than a decade, with funding projected to increase to \$240 million by 2010.<sup>2</sup> Because these dollars all come from outside Montana, there is an increased economic multiplier effect than there would be for monies being transferred within the state's economy. It is also important to note just how competitive the process is for winning a grant. Although the funding may come from a federal agency, a winning proposal is typically determined to be deserving of funds only after a review panel consisting of other research faculty from around the country approves it. Thus the work being done on Montana's campuses is well known by the best minds across the country and, in many cases, internationally.

These research expenditures put Montana above the regional average for high tech and scientific research at state colleges;<sup>3</sup> yet the Economic Affairs Committee was also asked to look at the impact to the state's economy. A good place to start is with the undergraduate and graduate students who gain employment while working on their degrees. With a competitive salary and tuition reimbursement, landing a position as a research assistant can mean achieving a degree with some extra pocket money and reduced debt. Data shows that someone with a college degree will earn 71 percent more than someone with a high school diploma (a graduate degree pumps this number up above 100percent).<sup>4</sup> In addition to being an educator and a researcher, one professor said he was also operating a small business given that he has 17 research assistants and all of the responsibility that goes along with managing a workforce of this size.

The challenge comes in translating these positions into career employment opportunities after graduation. A common story we hear (usually with great lament when told by a mother or father) is of the person who would like to stay in Montana after earning their degree but are lured away by the prospect of higher salaries elsewhere. Census data shows the largest out migration from Montana's more populous counties to places like Seattle, Portland, Denver and Phoenix.<sup>5</sup> However, recent information from the Census Bureau indicates that this trend may be reversing. Montana has a net in-migration of persons aged 22-29 with an

associate's degree or higher, with almost 7,000 more moving into the state than leaving it.<sup>6</sup> The reason for the reversal may be the result of the initiatives begun by professors and graduate students in commercializing technology and products coming out of their academic research. As of 2007 there were 96 active licenses with Montana companies using intellectual property developed on Montana campuses.<sup>7</sup> In that same year there were 115 patents issued, and many of the businesses using these patents are setting up shop with direct proximity to campus so that they may employ students part-time who can move into full-time status as they finish their education.<sup>8</sup>

## ECONOMICS 101

Saying that Montana is a small business state needs some reinforcing through data. The federal government typically defines a "small business" as having 500 employees or less.<sup>9</sup> Yet a business with a few hundred employees is sizable by Montana standards, with only 26 organizations (non-governmental) having 500 employees statewide compared to 22,000 having less than 5 employees.<sup>10</sup> Obtaining venture capital in a rural state remains a challenge, and people who start businesses in Montana typically have a direct connection to the state and personal reasons for wanting to live here. It is this latter preference that is much more difficult to capture in data, but it has a real impact, nonetheless. This is where Montana's university system has such a large role to play. The inverse of providing opportunities for homegrown intellectual talent is recruiting the best and brightest from outside the state. As with any successful venture, research faculty want to have the best students on their team, and with post-doctoral opportunities included in the mix, it is not unusual to see a collaboration between a professor and student last a decade. Many professors recruited into Montana universities from other schools arrive with some of their graduate students transferring with them. Those not going into academia for their own careers create a pool of talented employees in Montana's higher wage sector. Wages from spinoff companies from the university system come in at \$48,040 compared to the statewide average of \$32,223.<sup>11</sup> These newly minted scientists are also primed to become entrepreneurs as they have the incentive to create businesses in order to live in desirable

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<sup>1</sup> Montana University System

<sup>2</sup> National Science Foundation

<sup>3</sup> National Science Foundation

<sup>4</sup> U.S. Census Bureau, (Day and Newburger 2002)

<sup>5</sup> U.S. Census Bureau, County to County Migration Patterns

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<sup>6</sup> U.S. Census Bureau, American Community Survey

<sup>7</sup> Montana University System

<sup>8</sup> Montana University System

<sup>9</sup> Small Business Administration

<sup>10</sup> U.S. Census Bureau, County Business Patterns

<sup>11</sup> Montana University System, and the Montana Department of Labor and industry

communities.

After a successful May meeting at the University of Montana, which served to flesh out many of the numbers recorded herein, the Economic Affairs Interim Committee will meet next at Montana State University on July 17. Legislators have heard from university officials before about the importance of higher education to the economy, but the process initiated by this committee has allowed for a unique dialogue between Montana's universities and the Legislature in a way not available during a legislative session. What is in

the process of being revealed is the placement of Montana's research faculty among their peers across the country, a testament to the Universities' ability to recruit top talent. Yet it is the students the Committee has encountered, with both their immersed role in this research and natural excitement for what they are achieving, that have been the best ambassadors for the campuses. If it is back to school for these legislators, they have been impressed by the caliber of their classmates.



# INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
July 2008						
		1	2	3	4	5
6	7	8	9 Legislative Finance Committee/Revenue and Transportation Committee joint subcommittee, Room 102	10 RTIC HB 448 subcommittee, Room 137, 8 a.m. RTIC SJR 31 sub- committee, Room 102, 9:30 a.m.  Revenue and Trans- portation Committee, Room 137, 3 p.m.	11 Revenue and Trans- portation Committee, Room 137, 8 a.m.	12
13	14 Environmental Quality Council, Room 102	15 Environmental Quality Council, Room 102	16	17 Economic Affairs Committee, MSU campus, Bozeman  Energy and Tele- communications Committee, Room 172	18 Economic Affairs Committee, MSU campus, Bozeman	19
20	21	22	23	24	25	26
27	28	29 HB 49 Special Purpose Districts subcommittee	30	31		

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
August 2008					1 Law and Justice Committee	2
3	4	5	6	7	8	9
10	11	12 Water Policy Committee, Room 152	13 Water Policy Committee, Room 152	14	15	16
17	18	19	20 Fire Suppression Committee, Stage Stop Inn, Choteau, 9 a.m.	21 State-Tribal Relations Commit- tee, Room 137  Children, Families, Health and Human Services Committee, Room 102	22 Children, Families, Health and Human Services Committee, Room 102	23
24	25	26	27	28	29	30
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LEGISLATIVE SERVICES DIVISION  
PO BOX 201706  
HELENA MT 59620-1706